

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**BLUE SPIKE, LLC**  
*Plaintiff,*

V.

**TEXAS INSTRUMENTS, INC.**  
*Defendants*

§ Civil Action No. 6:12-CV-499 MHS

## § LEAD CASE

6. Chittadi N. 112 CHITTAJUGA

## **CONSOLIDATED CASE**

**BLUE SPIKE, LLC,**  
*Plaintiff,*

V.

AUDIBLE MAGIC CORPORATION,  
FACEBOOK, INC., MYSPACE, LLC,  
SPECIFIC MEDIA, LLC,  
PHOTOBUCKET.COM, INC.,  
DAILYMOTION, INC.,  
DAILYMOTION S.A., SOUNDCLOUD,  
INC., SOUNDCLOUD LTD., MYXER,  
INC., QLIPSO, INC., QLIPSO MEDIA  
NETWORKS LTD., YAP.TV, INC.,  
GOMISO, INC., IMESH, INC.,  
METACAFE, INC., BOODABEE  
TECHNOLOGIES, INC., TUNECORE,  
INC., ZEDGE HOLDINGS, INC.,  
BRIGHTCOVE INC.,  
COINCIDENT.TV, INC., ACCEDO  
BROADBAND NORTH AMERICA,  
INC., ACCEDO BROADBAND AB,  
AND MEDIAFIRE, LLC

*Defendants.*

**BLUE SPIKE, LLC,**  
*Plaintiff,*

V.

**WIOFFER, LLC**  
*Defendant.*

§ Civil Action No. 6:12-CV-570 MHS

## § CONSOLIDATED CASE

**DECLARATION OF ANDREW PAKULA IN SUPPORT OF DEFENDANT  
AUDIBLE MAGIC CORPORATION'S AND ITS CUSTOMERS' MOTION TO  
TRANSFER VENUE TO THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF CALIFORNIA UNDER 28 U.S.C. § 1404(a)**

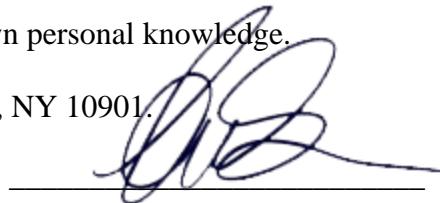
I, Andrew Pakula, declare under penalty of perjury that the following is true and correct:

1. I am CEO of WiOffer LLC. I have personal knowledge of the facts set forth in this declaration, or access to WiOffer LLC's ("WiOffer") corporate information and records allowing me to confirm these facts. If called as a witness, I could testify competently to these facts under oath.
2. WiOffer is headquartered in Suffern, New York.
3. WiOffer has no operations, employees, or property in Texas.
4. WiOffer regularly conducts business in the San Francisco Bay Area and Silicon Valley.
5. WiOffer is accused in the complaint in the above-referenced action based on Audible Magic's technology.
6. In March 2011, WiOffer entered into an agreement with Audible Magic, located in Los Gatos, California, wherein Audible Magic agreed to provide its Content Identification Services to WiOffer. This is technology accused by Blue Spike in the instant action. The Content Identification Services provided to WiOffer are, at all times, managed and hosted by Audible Magic in Los Gatos, California and San Jose, California.
7. WiOffer interacted with Audible Magic technical and business personnel in Los Gatos, California to obtain the agreement with Audible Magic and with regard to technical aspects of the Audible Magic technology.
8. As part of its agreement with Audible Magic, WiOffer utilizes or accesses servers, databases, and software located in and/or originating from Audible Magic in Los Gatos, California.

9. WiOffer has no access to, and no ability to alter Audible Magic's proprietary source code used to run Audible Magic's Content Identification Services.

I declare under penalty of perjury under the laws of the United States of America that the foregoing facts are true and correct based on my own personal knowledge.

Executed on May 6, 2013 in Suffern, NY 10901.



Andrew Pakula